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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,696	06/28/2000	Angus O. Dougherty	1759CIP/USW0577 PUS	6861
22193	7590	10/02/2003	EXAMINER	
QWEST COMMUNICATIONS INTERNATIONAL INC LAW DEPT INTELLECTUAL PROPERTY GROUP 1801 CALIFORNIA STREET, SUITE 3800 DENVER, CO 80202			STEVENS, ROBERTA A	
		ART UNIT	PAPER NUMBER	
		2665		

DATE MAILED: 10/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/605,696	DOUGHERTY ET AL.
	Examiner Roberta A Stevens	Art Unit 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 June 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 346
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Mullen (U.S. 6363070 B1).
3. Mullen teaches (abstract and figure 2) a method of providing high-speed information service within a communication system, comprising establishing a distributed network of distribution points; providing each packet destined for a subscriber unit with an address, the address indicating a destination within the communication system; receiving each packet in the network of distribution points; in each distribution point along a path of distribution points to the destination, determining to which distribution point each packet will be forwarded based on the address; receiving each packet in an access point servicing the destination; and forwarding each packet to the destination subscriber unit.
4. Claims 10 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Ciotti (U.S. 6421731).
5. Ciotti teaches (figure 1 and abstract) a method of distributing high-speed information packets to at least one subscriber unit, each information packet associated with an information channel, comprising routing each information packet through a distributed network of routing elements in wireless communication with at least one other routing element in the network of

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routing elements; receiving each information packet in a distribution center in communication with the distributed network of routing elements; forwarding each information packet to each subscriber unit in communication with the distribution center and requesting the information channel of which the information packet is associated.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 6-9, 11, 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen in view of Norman (U.S. 6049533).

9. As mentioned above Mullen teaches all of the limitations of claim 1.

10. Mullen does not teach transmitting packets over optical fibers.

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11. Norman teaches using other means of wireless connections such as optical links. It would have been obvious to one of ordinary skill in this art to adapt optical fiber as a means for wireless connection as it is well known in the art.

12. Regarding claims 8-9, 11, 24-35 and 37, as for video and VDSL service, it would have been obvious to one of ordinary skill in this art to adapt to both Mullen and Norman's system as they are well known in the art.

13. Claims 12-19 and 38-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciotti in view of Mullen.

14. As mentioned above, Ciotti teaches all of the limitations of claim 10.

15. Ciotti does not teach an access point.

16. Mullen teaches (figure 1) access points that communicate directly with the end nodes. It would have been obvious to one of ordinary skill in the art to adapt to Ciotti's system Mullen's concept of using access points to add to the quality of service with in the system.

17. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciotti in view of Norman.

18. Claims 20-23 recite the same limitations of claim 10. As for a converting to optical format Ciotti does not teach optical format.

19. Norman teaches using other means of wireless connections such as optical links. It would have been obvious to one of ordinary skill in this art to adapt to Ciotti's system optical fiber as a means for wireless connection as it is well known in the art.

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*Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Todd (U.S. 6359901 B1), Pelech (U.S. 6243585 B1), Melnik (U.S. 6046978), Dos Sants (U.S. 6587468 B1), Diepstraten (U.S. 5339316), Mustajarvi (U.S. 6512750 B1) and Mikkonen (U.S. 6587457 B1) are cited to show the state of the art.

21. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

23. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

24. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:** (703) 746-9515

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

09-25-03



ALPUS H. HSU  
PRIMARY EXAMINER